

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GABRIELLA LUZUNARIS,
Plaintiff,

-v-

23-CV-11137 (GHW) (RFT)

BALY CLEANING SERVICES, INC., et al.,
Defendants.

ORDER

ROBYN F. TARNOFSKY, United States Magistrate Judge.

The parties jointly request a stay of discovery pending a decision on Defendants' motion to dismiss. (See ECF 25.) "When a motion to dismiss is pending, courts typically consider several factors in determining whether to stay discovery; they include the following: (1) a strong showing, by the defendants, that the plaintiffs' claim(s) lacks merit; (2) the breadth of the discovery demanded and the burden of responding to it; and (3) the risk of unfair prejudice to the plaintiff." *Kassover v. UBS A.G.*, No. 08-CV-2753 (LMM) (KNF), 2008 WL 5395942, at *4 (S.D.N.Y. Dec. 19, 2008). I cannot conclude that there is good cause here.

As to the first consideration, Defendants have not made the requisite strong showing that all of Plaintiff's claims lack merit; moreover, the motion does not raise potentially dispositive issues, but rather focuses on pleading deficiencies, which may be remedied. See *Bookends & Beginnings LLC v. Amazon.com, Inc.*, No. 21-CV-0351 (GHW) (DCF), 2021 WL 5450236, at *2 (S.D.N.Y. Nov. 19, 2021) (overruling objections to denial of stay of discovery by magistrate judge when the defendants' pending motion to dismiss "was not based on any lack of jurisdiction or statute of limitations defense, but rather on supposed pleading deficiencies, which may be capable of being remedied") (citing *Gandler v. Nazarov*, No. 94-CV-

2272 (CSH), 1994 WL 702004, at *4 (S.D.N.Y. Dec. 14, 1994) (“finding good cause to grant a stay where the pending motion is potentially dispositive because it is ‘based on lack of personal jurisdiction’”). As to the second consideration, the parties have not yet exchanged discovery requests, so there is no basis for saying that the discovery requested is particularly broad or the burden of responding is particularly high. And as to the third consideration, while Plaintiff is not contending that there is risk of unfair prejudice to her, this factor, standing alone, does not support a finding of good cause for a stay. The motion is DENIED.

The Clerk of Court is respectfully requested to terminate ECF 25.

Dated: April 9, 2024
New York, New York

SO ORDERED.



ROBYN F. TARNOFSKY
United States Magistrate Judge